



Western Interstate Energy Board/ WINB

May 4, 1995

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Mr. Daniel Dreyfus, Director
Office of Civilian Radioactive Waste Management
U.S. Department of Energy
RW-1 Room 5A-085
Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

RE: Section 180(c) Notice of Inquiry

Dear Mr. Dreyfus:

Tom Brotherton
Chairman

Douglas C. Larson
Executive Director

The High-Level Radioactive Waste Committee of the Western Interstate Energy Board offers the following comments on the Department of Energy's January 6, 1995 Notice of Inquiry on technical assistance and funding to states under Section 180(c) of the Nuclear Waste Policy Act. The Committee has commented on this issue to the Office of Civilian Radioactive Waste Management several times in past years. (See Attachment A.) In addition, in 1994, the Western Governors' Association adopted a resolution urging the expeditious implementation of Section 180(c), and proposed strawman regulations.¹ (See Attachment B.)

The Committee commends the Department for its willingness to receive additional comments on the implementation of Section 180(c), but it believes that it is imperative that DOE accelerate the implementation of the provision. Lawsuits and pending legislation could force shipments to begin by January 31, 1998. The Committee's analysis indicates that DOE's delays in implementing Section 180(c) mean that the training and funds anticipated under the NWPA will not be in place by January 1998. Even DOE's analysis shows there is insufficient time available to implement Section 180(c) prior to 1998.² The

¹ On August 14, 1994 the Chairman, Governor Mike Leavitt (UT), and Vice-Chairman, Benjamin Nelson (NE), wrote Energy Secretary O'Leary to convey a resolution adopted unanimously by western governors urging DOE to "expeditiously promulgate regulations to implement Section 180(c)" and outline the requisites of such regulations. The governors conveyed strawman regulations to implement Section 180(c).

² The preliminary draft of the *Office of Civilian Radioactive Waste Management Transportation Plan: Developing the Transportation System* (June 1994) states that, "[a]ssistance for training, to jurisdictions along the initial corridors, will begin no less than three years before shipments commence." (P. 5-3) This restates previous

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failure to plan for the contingency of early shipments — a failure endemic to the OCRWM program — will result in either: (1) a wasteful and uncoordinated crash program to meet the requirements of Section 180(c); (2) a delay in shipments; and/or (3) the federal government renegeing on its obligations under Section 180(c). None of these outcomes is desirable. Even if pending litigation and proposed legislation aimed at forcing shipments to commence in 1998 fail, the effort to begin implementing Section 180(c) now will nevertheless be beneficial to all parties involved.

The magnitude of the task of implementing Section 180(c) should not be underestimated. For example, in the first 11 months of the shipping campaign required under pending bill HR 1020, which forces DOE to pick up 1200 metric tons from holders of acceptance rights under the standard contract in 1998, shipments are expected to traverse 35 states³ (See Attachment C.) **The size of this shipping campaign is unprecedented.** A crash program to implement Section 180(c) in the 32 months before shipments may begin will be chaotic and expensive, particularly in light of the failure to identify shipping routes and allow for state adjustments to such routes, as authorized under HM 164.

Failure to implement Section 180(c) will delay shipments. No state or local government can accede to such a major program of spent fuel and high-level waste shipments without adequate preparations.

The HLW Committee is very concerned with proposals in Congress to limit DOE's obligations under Section 180(c).⁴ Public pressure will require that adequate preparations be in place. If such preparations are not funded under the NWPA, state and local government taxpayers will be forced to pick up preparation costs. **States cannot afford another unfunded federal mandate.**

Options in Notice of Inquiry

The Notice of Inquiry (NOI) outlined five options. The Committee offers the following comments on the proposed options.

Option 1: Use Established Federal Agency Programs Other Than the Department's

OCRWM pronouncements that 180(c) assistance would be available 3-5 years in advance of shipments (*Preliminary Draft OCRWM Transportation Program: Strategy to Provide Training Assistance as Required by Section 180(c) of the Nuclear Waste Policy Act, as Amended* (November 1990))

³ DOE's *Program Plan* calls for having some shipping capabilities in place by 1998.

⁴ For example, S. 167 and HR 1020 would limit training and funding to jurisdictions that will experience "substantial amounts" of NWPA shipments. "Substantial amounts" is not defined in the bills.

The NOI cites four existing programs. The Committee believes the use of these existing delivery mechanisms will result in a reduced federal effort under Section 180(c) and will diminish the focus on preparing for NWSA shipments. Existing programs lack the scope, requirements, and focus necessary for NWSA shipment preparations. While the Committee agrees that coordination of federal assistance programs is a laudable goal, it believes such coordination is best done by minimizing detailed federal requirements and executing the coordination at the state level. Federal engineering of a one-size-fits-all coordinated emergency response program for states will not work.

Each of the programs outlined under Option 1 has its own peculiar limitations. The Committee observes that the FEMA Comprehensive Cooperative Agreement program has been the subject of substantial disagreement with several western states because of a federal preoccupation with preparing for nuclear attacks, rather than preparing for transportation accidents. The Committee notes that the DOT program under the Hazardous Materials Transportation Act requires a 20 percent match by state and local governments. This is inappropriate for shipments under the NWSA. The beneficiaries of the activities which generated the waste should pay for transportation preparations, not the communities through which the waste will be transported. DOT's Motor Carrier Safety Assistance program is limited to inspection and enforcement activities for highway shipments. The Federal Railway Administration program is also too limited to address Section 180(c) requirements in that it only covers railroad inspections.

Option 2: Establish Agreements with State, Local, Tribal, and Other Organizations

This option has been successfully used in preparations for shipments to the Waste Isolation Pilot Plant. The agreement between the Western Governors' Association and DOE has provided a vehicle for training and funding to corridor states. However, the WIPP program of assistance to states has evolved over six years and involves only seven states in a substantial way. As noted earlier, implementation of Section 180(c) may be required in the next 32 months covering 35 states. Expansion of a WIPP-type program to 35 states in 32 months would not be feasible. There are, however, many important lessons in interstate coordination to be learned from the WIPP program, as well as from the work of the HLW Committee of the Western Interstate Energy Board. Each of these lessons needs to be a part of the Section 180(c) delivery mechanism. Key among these lessons is the need for coordination among states along a specific shipping route.

Option 3: Establish a Department-wide Grant Program

This approach has appeal in that it potentially reduces the points of interaction between DOE and corridor states. However, there are vast differences between the types of hazardous materials being shipped by DOE. As a result, there are also variations in the types of emergency preparations which these shipments require. Given the difficulty DOE has historically encountered in fostering coordination among its different shipping campaigns, the Committee believes it is most efficient for

such coordination to occur at the state level, *provided that* DOE does not hamstring state coordination efforts through detailed rules and procedures which do not allow flexibility

Furthermore, the Committee is sensitive to utility ratepayer concerns that the Nuclear Waste Fund not subsidize other government transportation activities. The commingling of funds from various DOE shipping programs under a Department-wide grant program will reduce accountability

Option 4: Establish an OCRWM Grant Program

The Committee believes Option 4 is the preferred approach, *provided that* such a grant program incorporates flexibility to allow states to coordinate Section 180(c) training and funding with other programs. As outlined below, the Committee supports distribution of funds according to formulae, coupled with corridor-specific coordination efforts.

Option 5: Use Elements From the Previous Four Groups

See below.

Preferred Option

The HLW Committee supports an OCRWM Grant Program established in regulations which provides flexibility for states to coordinate the OCRWM program with other transportation safety programs, while ensuring that the unique hazards presented by NWPA shipments are addressed. The Committee believes that implementation of Section 180(c) through regulations is needed to ensure program stability through changes of leadership at the Department. Such stability is essential for the successful implementation of a program covering 30 years or more and innumerable jurisdictions in more than 40 states.

There is substantial precedent for establishing such assistance programs in regulations, such as the training and planning grants provided by the Department of Transportation under the Hazardous Materials Transportation Act (49 CFR §110) and the Federal Highway Administration's Motor Carrier Safety Assistance program (49 CFR §350). The Committee also believes that DOE's enabling act (42 USCA §7191) and the Administrative Procedure Act both permit expeditious rulemaking that would not delay assistance under Section 180(c). The Committee would like to know whether the DOE General Counsel believes there are reasons why Section 180(c) could not be implemented through regulation.

The Committee believes that such regulations should:

- Apply to all shipments to interim storage facilities and/or a repository(s) regardless of

whether such facility is operated by DOE or a private entity (which accepts waste which otherwise would have been shipped to an NWPA facility if such a facility been operating).

- ▶ Prohibit large-scale shipments (e.g., shipments from multiple sites) unless assistance under Section 180(c) has been provided at least three years prior to the start of shipments;
- ▶ Provide for the development and funding of state and tribal plans which identify:
 - (1) the minimum elements necessary to ensure safe routine transportation and procedures for dealing with emergency response situations,
 - (2) the current capabilities along each corridor,
 - (3) the activities needed to achieve minimum elements, and
 - (4) performance measures to evaluate programs implemented under the plan;
- ▶ Provide annual implementation grants to states and tribes, with 75 percent of the grant funds allocated according to the number of projected shipment miles in the jurisdiction and 25 percent of the funds allocated by the Secretary to ensure minimum funding levels and program capabilities among impacted states and tribes;
- ▶ Provide that funding must be provided to eligible host and corridor jurisdictions not less than three to five years prior to the commencement of shipments;
- ▶ Provide flexibility in the expenditure of Section 180(c) funds by states and tribes pursuant to the provisions of the state or tribal plan; and
- ▶ Establish Regional Training Advisory Teams of states and tribes to review and coordinate plans along shipment corridors and a National Training Advisory Committee to report to DOE on progress and needed additional actions

Response to NOI Questions

The Notice of Inquiry asks for responses to eight questions.

(1) Which option is the least administratively burdensome?

The Committee believes that its preferred option is the least burdensome for the Department of Energy since it does not require DOE to micro manage decisions (e.g., what, if any, equipment can be purchased under Section 180(c)). DOE's role would be to distribute funds according to the proposed formula and to allocate the 25 percent discretionary funds. DOE's other responsibility would be to assist states/tribes in building the capacity of their emergency response programs by providing timely,

accurate information on: (a) shipments (both long-term shipping schedules and real-time tracking of shipments); and (b) DOE response capabilities (e.g., response capabilities of the shippers, any DOE escorts, and DOE's Radiological Assistance Program). DOE may also have a role in helping Regional Training Advisory Teams and individual states organize program evaluation procedures.

(2) Which option offers the greatest flexibility for recipients?

Clearly, the Committee's preferred option grants the greatest flexibility to states/tribes. However, the preferred option also makes states/tribes accountable for their resource allocation decisions through the peer review process embodied in the Regional Training Advisory Teams.

(3) What eligibility criteria do similar funding and training programs use?

The Committee believes this question represents a step in the wrong direction towards the same type of federal micro management prevalent in other programs. Eligibility criteria should be developed by individual state plans which are subject to peer review.

(4) What formulas exist for the division of funds among eligible parties?

The preferred option proposes planning grants of \$150,000 per state/tribe and annual implementation grants. Seventy-five percent of the annual implementation grants would be allocated to eligible states/tribes in proportion to the projected number of shipment miles in such jurisdictions as compared to the total number of shipment miles. Twenty-five percent of such funds would be allocated by the Secretary to ensure minimum funding levels and program capability levels for a host(s), corridor states or Indian tribes, and states within which shipments originate.

(5) What restrictions should apply to the use of funds?

As proposed in the preferred option, states/tribes should be given broad discretion in the use of Section 180(c) funds. Accountability for the appropriateness of the resource allocation (except for outright fraud which would be the subject of a federal financial audit) would be achieved through the peer review process embodied in the Regional Training Advisory Teams.

(6) How may funds be used in similar programs?

The Committee believes that the design of the 180(c) assistance program should not be constrained by federally-imposed limits on the expenditure of funds under similar programs, except to protect against fraud, theft and other fiscal mismanagement. Decisions concerning funding priorities to prepare for NWPA shipments in a state or reservation should be left to the state or tribe. Peer review of state/tribal plans would be an effective means of providing positive guidance and assistance

to individual states/tribes on the effective allocation of resources.

(7) What should be included under the term "technical assistance"?

The HLW Committee believes that there are two categories of technical assistance which DOE should provide.

(a) Accurate, timely information on shipments (both advanced planning information and real-time tracking information) including routes, modes, casks, carrier qualifications, escorts (if any), and DOE emergency response capabilities and response times.

(b) Any services the states specifically request DOE to provide.

The guiding principle of the preferred option is that Section 180(c) funds go directly to states/tribes and are not diverted into a resource-consuming federal bureaucracy which may add little to the response capabilities along the routes. Thus, states/tribes would contract with DOE (or any other party they choose) for services beyond those listed under (a).

(8) Based on past experience, what types and scope of training activities would be appropriate for implementation under Section 180(c)?

As proposed in the preferred option, the scope of eligible activities should not be constrained. This is the responsibility of each state/tribe to determine, taking into consideration the advice from the peer review by the Regional Training Advisory Team. As a guide to the types of expenditures deemed important in preparing for nuclear waste shipments, DOE should review the activities conducted by states under the WGA/WIPP program. However, it should be noted that several key activities integral to NWPA shipments were generally not part of the WGA/WIPP program, such as routing analysis.

Conclusion

The HLW Committee urges DOE to move expeditiously in implementing Section 180(c). Past DOE delays have made it impossible to have adequate preparations in place for shipments beginning on January 31, 1998. Further delays (or efforts to force shipments without adequate preparations) must be avoided.

The Western Governors' Association and the HLW Committee have proposed a detailed set of regulations to implement Section 180(c). The proposal, found in Attachment B, gives states and tribes the greatest flexibility in the coordination of Section 180(c) assistance with other emergency preparedness activities. It provides for accountability by placing decisionmaking power on the allocation of funds and the making of preparations with one primary party — the states and tribes.

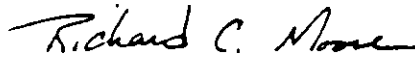
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The Committee urges DOE to adopt the proposal contained in Attachment B.

Sincerely,



Daniel Nix, Co-Chair
High-Level Radioactive Waste Committee



Richard C. Moore, Co-Chair
High-Level Radioactive Waste Committee

cc: Linda Desell, OCRWM
Lois Smith, TRW Environmental Safety Systems

Attachments: A. Chronology of HLW Committee comments on Section 180(c) development
B. WGA resolution and strawman regulations implementing Section 180(c)
C. Map of possible shipping routes to be used in 1998 under HR 1020

Chronology of HLW Committee Comments on Section 180(c) Development

In January 1991, the HLW Committee issued comments on DOE's preliminary draft *Strategy to Provide Training Assistance as Required by Section 180(c) of the Nuclear Waste Policy Act, as Amended*. The Committee's comments urged DOE to: implement Section 180(c) with the full participation of states, tribes and local governments; select routes before training begins; give states flexibility to determine training needs; allow the list of eligible 180(c) activities to be broad and flexible; not rely on the Indiana University Study as a measure of preparedness; address equipment development, calibration and maintenance; address the impact of HMTUSA; address the funding levels; and address contingency planning.

In March 1991, the Western Interstate Energy Board and the Southern States' Energy Board sent a letter to Energy Secretary Watkins urging a more active role for states in Section 180(c) development.

In May 1992, the HLW Committee commented on the second draft of DOE's *Strategy for OCRWM to Provide Training Assistance to State, Tribal and Local Governments*: urging 180(c) development not be diluted by the broad Department-wide TEC initiative; stressing again the importance of direct state involvement in 180(c) development; and urging the timely release of the *Policy Options* paper for review.

In October 1992, the Committee reaffirmed its position for DOE that Section 180(c) should be implemented through rulemaking by DOE.

In December 1993, the Committee issued comments on DOE's draft *Policy Options* paper and recommended that: grants should be made directly to each eligible host and corridor state or Indian tribe; OCRWM should begin to address funding levels for eligible jurisdictions; planning grants should be made to each eligible state to develop a plan for assistance; implementation grants should be provided annually to eligible states and Indian tribes which have prepared plans; and initial planning grant funds should be available to host-corridor states and tribes prior to the start of shipments.

In August 1994, the Western Governors' Association conveyed to Energy Secretary O'Leary a resolution recommending expeditious promulgation of regulations to implement Section 180(c) and included recommendations on the content of those rules, including strawman rules developed by the HLW Committee.

In addition to the above comments, the Committee has produced the following relevant reports: *Implementation Strategy for Section 180(c) of the 1987 Amendments to the Nuclear Waste Policy Act* (August 1988); *Timing of Emergency Response Training Under Section 180 of the Nuclear Waste Policy Act Amendments* (March 1990); and *Overview of Western States Radioactive Material Transportation Training Courses* (July 1991).

August 16, 1994



WESTERN GOVERNORS' ASSOCIATION

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The Honorable Hazel O'Leary
Secretary of Energy
1000 Independence Avenue, S.W.
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Dear Secretary O'Leary:

As Chairman and Vice Chairman of the Western Governors' Association (WGA), we are pleased to send you copies of two policy resolutions adopted during our 1994 Annual Meeting. Western Governors' policy resolutions express the governors' collective positions on significant issues affecting the West. WGA is an association of eighteen western states and three Pacific flag islands.

The first resolution addresses the need for the Department to develop regulations to implement Section 180(c) of the Nuclear Waste Policy Act, which provides assistance to states to prepare for shipments of waste. Such rules should apply to all shipments to a Monitored Retrievable Storage facility and/or any other temporary or permanent repository, regardless of whether such facility is operated by the Department or another entity. To expedite the Department's efforts to develop such rules, enclosed is draft language which has been developed pursuant to the resolution. As reflected in this and past WGA resolutions, Western Governors' believe that it is important to make timely preparation for all nuclear waste shipments. The Department should not defer needed action to prepare for such shipments or downgrade the importance of transportation activities.

The second resolution addresses the need to overcome obstacles to effective communication between federal agencies and states that have been created by the Federal Advisory Committee Act (FACA). Specifically, it calls for changes to FACA to clarify the state's role under the law and to ensure that critical, ongoing communications between the levels of government is not hindered.

SPONSORS: Governors Symington and Romer
SUBJECT: Federal Advisory Committee Act

A. BACKGROUND

1. There are numerous committees, boards, commissions, councils, and similar groups which have been established to advise officers and agencies in the executive branch of the Federal government and they are frequently a useful and beneficial means of furnishing expert advice, ideas, and diverse opinions to the Federal government.
2. In order to regulate these committees, Congress passed the Federal Advisory Committee Act (FACA) of 1972. FACA describes the limitations of those authorized committees and sets up specific procedures for their dealings with the agencies and officers of the executive branch.
3. Numerous existing laws and legislative proposals under consideration require significant cooperation and coordination between the states and certain agencies of the executive branch. Instead of working directly with the states to achieve the intent of the legislation, these agencies are either requiring the formation of federal advisory committees before dealing with the states or avoiding discussions altogether; the quality of decision-making is adversely affected because of the limited sharing of technical information and the additional bureaucracy resulting from FACA.
4. The states that are affected by the legislation frequently have primary, exclusive, or concurrent jurisdiction in these areas and are also responsible for the implementation of the laws or regulations. To apply FACA to the states causes an added burden to the states, hinders the free flow of communication between jurisdictions, and raises serious federalism issues.

B. GOVERNORS' POLICY STATEMENT

1. The clarification of FACA is fundamental to ensuring the implementation and development of current and future legislation and regulations. Maintaining the status quo will only serve to limit the effectiveness of legislation and provide an obstacle to the future cooperation between the various levels of government.
2. The western governors support legislation that would clarify the states' role under FACA, the role of various associations in which states participate, and

SPONSOR: Governor Bob Miller
SUBJECT: Fulfilling a Federal Obligation to Fund Preparations For Shipments of Spent Nuclear Fuel and High-Level Radioactive Waste

A. BACKGROUND

1. Section 180(c) of the Nuclear Waste Policy Act requires the Secretary of Energy to provide technical assistance and funds to states for training required for safe routine shipments and for emergency situations involving the transportation of spent nuclear fuel and high-level radioactive waste under the Act. Funds for implementing Section 180(c) are derived from the users of nuclear power for management of commercial spent nuclear fuel and from the U.S. Treasury for the management of Department of Energy waste.
2. As a result of the federal government's policies on the storage and disposal of spent fuel and high-level waste, western transportation corridor states, local governments and Indian tribes will be required to expend substantial effort and resources to protect the public health and safety of their residents.
3. Sound, cost-effective preparation for spent fuel and high-level waste shipments requires adequate lead time. The cost-effective expenditure of Section 180(c) funds requires that shipping routes be identified early (as recommended in WGA Resolution 93-003) to enable states, tribes, and the federal government to focus resources on actual shipping routes and not allocate resources along all potential shipping routes.
4. The Department of Energy has begun an extended process for implementing the mandates of Section 180(c) and has appropriately concluded that rulemaking is required.
5. The Department of Energy's impending failure to meet the objective of the Nuclear Waste Policy Act to begin picking up spent fuel from reactors in 1998 has spawned private sector activities to locate a Monitored Retrievable Storage facility in the West. If developed, such a facility will trigger the potential shipment of 10,000 metric tons or more of spent fuel through the West. These shipments would occur outside the shipping system being developed by the Department of Energy and outside the waste management system envisioned under the Nuclear Waste Policy Act.

2. The Governors recommend that the Department of Energy involve western states in the process of soliciting comments and developing final regulatory language that will implement the provisions of this policy statement.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. This resolution is to be conveyed to the Secretary of Energy and the appropriate committees of Congress. The Western Interstate Energy Board, in conjunction with the WGA staff, is directed to provide regulatory language to the Department of Energy as a beginning point for the promulgation of rules to implement Section 180(c).

Section 180(c) Strawman Regulations

1.1 Purpose

The purpose of this Part is to implement Section 180(c) of the 1987 amendments to the Nuclear Waste Policy Act (NWPA) which states that:

"The Secretary of Energy shall provide technical assistance and funds to States for training for public safety officials of appropriate units of local government and Indian tribes through whose jurisdiction the Secretary plans to transport spent nuclear fuel or high-level radioactive waste under subtitle A (repository) or subtitle C (monitored retrievable storage facility). Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations. The Waste Fund shall be the source of funds for work carried out under this subsection." (Nuclear Waste Policy Amendments Act of 1987, Public Law 100-203, 42 U.S.C. 10101 et seq.)

1.2 Definitions

(a) "Civil control" means actions to protect the public, such as precautionary evacuations and controlling civil disruptions.

(b) "Corridor Regions" are contiguous areas of the United States through which shipments under the NWPA are expected based on the U.S. Department of Energy's preliminary determination of the routes for such shipments.

(c) "Corridor state or corridor Indian tribe" means any state or tribe other than a host state or tribe through which shipments under the NWPA would be made.

(d) "Eligible state or Indian tribe" means a host(s) and corridor states or Indian tribes through which shipments under the NWPA are planned within six years.

(e) "Host" means the state or tribe in which a repository, monitored retrievable storage facility (MRS), interim storage facility, or testing and evaluation facility is located.

(f) "National Training Advisory Committee" means a committee consisting of two representatives of each of the Regional Training Advisory Teams and one appointee of the Secretary of Energy.

(g) "NWPA" means the Nuclear Waste Policy Act (Public Law 97-425, 42 U.S.C. 10101 et seq.) and amendments thereto.

(h) "Personnel responding to accidents" include first responders, incident commander and support staff, radiological personnel, disaster emergency personnel, medical personnel, and public information personnel.

(i) "Procedures for dealing with emergency response situations" means activities including, but not limited to: accident notification and safe parking procedures; training, retaining, and equipping personnel responding to accidents involving shipments under the NWPA; assessment, development, and/or revision of courses, course materials, and exercises for personnel responding to accidents; and assessing opportunities to coordinate training, emergency response, and exercises.

(j) "Procedures for safe routine transportation" means activities needed to contribute to the incident free movement of radioactive materials under the NWPA including but not limited to: alternate route analysis, inspection of shipments and enforcement of applicable laws and regulations, record keeping audits, shipment notification, and tracking, operating protocols such as seasonal or time-of-day restrictions, improving confidence in the shipping package, transportation infrastructure enhancements, training for carriers and government inspectors and escorts, and public information.

(k) "Public Safety Officials" means officials of local governments or Indian tribes charged with responsibility for providing for safe routine transportation of spent

nuclear fuel and high-level radioactive waste or for dealing with emergency response situations involving spent nuclear fuel or high-level radioactive waste.

(l) "Regional Training Advisory Teams" means a team consisting of experts on planning or preparation of emergency preparedness procedures for radioactive materials transportation. The teams shall be formed for "corridor regions" of the U.S. The governor of a state or the tribal chairman may appoint a member to serve on the regional team.

(m) "Shipment miles" means the product of the expected number of shipments multiplied by the distance of such shipments.

(n) "Training" means: planning and implementation of technology and procedures for safe routine transportation such as drills and exercises; planning and development of technology and procedures for civil control; and planning and development of technology and procedures for personnel responding to accidents to deal with emergency response situations.

1.3 Scope

This part sets forth procedures under which the Secretary of Energy will provide technical assistance and funds to states and Indian tribes under Section 180(c) of the 1987 amendments to the Nuclear Waste Policy Act.

1.4 Policy

There will be no shipments under the NWPA through the jurisdiction of any state or Indian tribe unless Section 180(c) assistance under this part has been made available to such state or tribe in a time sufficient to effect plans under Section 1.7 to implement procedures for safe routine transportation and for dealing with emergency response situations.

1.5 Funding

- (a) Grants shall be made directly to each eligible host and corridor state or corridor Indian tribe to implement this part.
- (b) The Nuclear Waste Fund shall be the source of the grants.
- (c) Planning grants of at least \$150,000 shall be made to each eligible state or Indian tribe for development of the plan required under Section 1.7.
- (d) Annual implementation grants shall be allocated to eligible states and Indian tribes which have prepared plans under Section 1.7. Seventy-five percent of the funds appropriated for implementation grants for Section 180(c) shall be allocated to eligible states and Indian tribes in proportion to the projected number of shipment miles in such jurisdiction as compared to total number of shipment miles. Twenty-five percent of such funds shall be allocated by the Secretary to ensure minimum funding levels and program capability levels for a host(s), corridor states or Indian tribes, and states within which shipments originate.
- (e) Funding shall be provided to eligible host, corridor, and tribal jurisdictions not less than six years prior to the start of shipments.

1.6 Eligible Expenditures

- (a) Funds under this part may be expended by a host or corridor states or corridor Indian tribes for training. The host or corridor state or tribe shall have the flexibility to determine their own training needs.

1.7 Plans

- (a) To receive an implementation grant under Section 1.5, the governor or tribal chairperson of an eligible host, or the governor or tribal chairperson of corridor

states or corridor Indian tribes shall prepare a plan and certify that such plan: (1) identifies the minimum elements necessary to ensure safe routine transportation and procedures for dealing with emergency response situations; (2) identifies current capabilities along each corridor; (3) identifies activities needed to achieve minimum elements; and (4) identifies performance measures to evaluate programs implemented under the plan. Such plans shall specify how activities will be coordinated with programs sponsored by other federal agencies and related state, tribal, and local government programs. Such plans shall also identify procedures for coordinating activities with neighboring jurisdictions along the transportation corridor.

(b) A Regional Training Advisory Team shall be convened for the purpose of reviewing the plans of the host(s), and corridor states or corridor Indian tribes, in each transportation corridor region. The Regional Team shall: (1) provide feedback on the adequacy of the plan; (2) seek opportunities for affected states or Indian tribes to coordinate emergency preparedness activities; and (3) provide advice to the National Training Advisory Committee. Advisory Teams shall meet as needed for the purpose of examining plans. However, such plan review must be completed within a three month period.

(c) DOE shall approve an implementation plan, provided that such plan is certified by the governor or tribal chairperson as meeting the requirements of (a) and that such plan has been reviewed by the Regional Training Advisory Committee.

(d) Each host or corridor state or corridor Indian tribe shall review their plan annually and update their plan as needed.

(e) The National Training Advisory Committee shall be convened to advise the U.S. Department of Energy on: (1) the progress by the host(s) or corridor states or Indian tribes in developing procedures for ensuring safe routine transportation, as well as procedures for dealing with emergency response situations, and (2) needed actions including opportunities for greater interstate coordination and advice to the

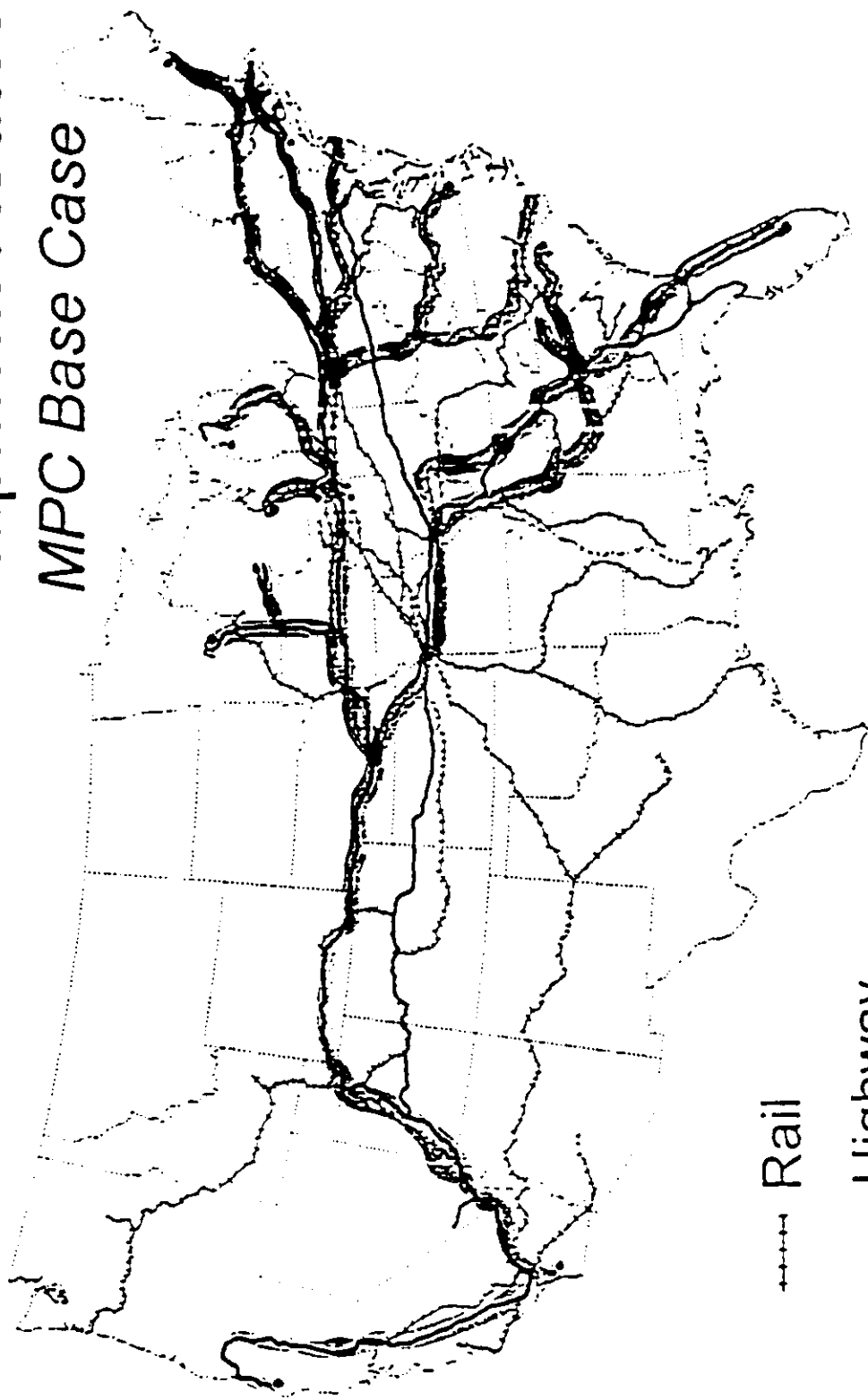
Department of Energy. The Committee's agenda shall be based on the recommendations of the Regional Training Advisory Committee. The Committee shall meet at least annually, and shall issue a report to the Secretary and Congress on lessons learned and needed improvements in the implementation of Section 180(c) every two years.

(f) Every five years, each host(s) and corridor states or Indian tribes, shall prepare a report evaluating their program under this part. Such evaluation shall identify the successes and failures of the program including data on the performance measures outlined in the plan. Such report shall be made available to other corridor states and Indian tribes in the Corridor Region and the Department of Energy.

First Year (1998) Shipping Routes Assuming the Required 1,200 MTUs are Shipped

Nuclear Waste Shipment Routes

MPC Base Case



--- Rail

— Highway